



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0936; FRL-10470-01-R9]

Clean Air Plans; 2015 8-Hour Ozone Nonattainment Area Requirements; Clean Fuels for Fleets; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the California State Implementation Plan (SIP) concerning the provisions for Clean Fuels for Fleets (CFF) for the 2015 ozone national ambient air quality standards (“2015 ozone NAAQS”) in the Riverside County (Coachella Valley), Sacramento Metro, San Joaquin Valley, Los Angeles – South Coast Air Basin (South Coast), Ventura County, and Los Angeles – San Bernardino Counties (West Mojave Desert) nonattainment areas (NAAs). The SIP revisions include the “California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard” (“Clean Fuels for Fleets Certification”) submitted on February 3, 2022. We are proposing to approve these revisions under the Clean Air Act (CAA or “the Act”), which establishes clean fuels for fleets requirements for “Serious,” “Severe,” and “Extreme” ozone NAAs.

DATES: Written comments must arrive on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0936 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions

(audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Andrew Ledezma, Air Planning Office (ARD-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3985, or by email at Ledezma.Ernesto@epa.gov.

SUPPLEMENTAL INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Background

On October 26, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm).¹ In accordance with section 107(d) of the CAA, the EPA must designate an area “nonattainment” if it is violating the NAAQS or if it is contributing to a violation of the NAAQS in a nearby area.

The EPA designated 21 areas in California as nonattainment for the 2015 ozone NAAQS on June 4, 2018, effective August 3, 2018.² Amador County, Calaveras County, Butte County, Imperial County, Mariposa County,³ San Francisco Bay Area, San Luis Obispo (Eastern part), Sutter Buttes, Tuolumne County, and Tuscan Buttes NAAs were classified as Marginal nonattainment. Kern County (Eastern Kern), Nevada County (Western part), Sacramento Metro,⁴ and San Diego County⁵ NAAs were classified as Moderate nonattainment. The EPA classified the Ventura County NAA as Serious nonattainment. The EPA classified the Los Angeles-San Bernardino Counties (West Mojave Desert) and Riverside County (Coachella Valley) NAAs as Severe nonattainment. The EPA classified both the San Joaquin Valley and the South Coast NAAs as Extreme nonattainment. The EPA designated the lands of the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation⁶ and the Morongo Band of Mission Indians as separate NAAs and classified them as Marginal and Serious nonattainment, respectively. The State of California does not have regulatory authority on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

¹ 80 FR 65292 (October 26, 2015).

² 83 FR 25776 (June 4, 2018).

³ On April 13, 2022, the EPA reclassified Mariposa from Marginal to Moderate for the 2015 ozone NAAQS (87 FR 21842).

⁴ On October 28, 2021, the EPA reclassified Kern County (Eastern Kern), Nevada County (Western part) and Sacramento Metro from Moderate to Serious for the 2015 ozone NAAQS (86 FR 59648).

⁵ On April 8, 2021, the EPA reclassified San Diego from Moderate to Severe for the 2015 ozone NAAQS (86 FR 18227).

⁶ On April 13, 2022, the EPA reclassified the lands of the Pechanga Band Luiseño Mission Indians of the Pechanga Reservation from Marginal to Moderate for the 2015 ozone NAAQS (87 FR 21842).

Sections 182(c)(4)⁷ and 246 of the CAA provide that SIPs for Serious, Severe, and Extreme ozone nonattainment areas with 1980 populations greater than 250,000 must require at least a specified percentage of all new covered fleet vehicles in model year 1998 and thereafter, purchased by each covered fleet operator in each covered area, to be clean-fuel vehicles and use clean alternative fuels when operating in the covered area.⁸ Sections 182(c)(4) and 246 of the CAA also require states to submit to the EPA a plan revision addressing this requirement within 42 months after the effective date of the designation and classification.

On February 3, 2022, the California Air Resources Board (CARB) submitted SIP revisions to the EPA for multiple nonattainment areas to fulfill requirements under section 182(c)(4) and section 246 of the CAA requiring clean fuels for fleets in nonattainment areas. In this action, we are evaluating and proposing action on the submittal for CFF for six nonattainment areas with 1980 populations greater than 250,000 in California, and that are classified as Serious, Severe, or Extreme – the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs.⁹

II. Statutory and Regulatory Requirements

A. Procedural Requirements for Adoption and Submittal of SIP Revisions

CAA sections 110(a)(1) and 110(l) and 40 CFR 51.102 require states to provide reasonable opportunity for a public hearing prior to adoption of SIP revisions. Section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days

⁷ CAA section 182(c)(4) establishes the requirements for clean-fuel vehicle programs in Serious NAAs. CAA sections 182(d) and 182(e) require the same for Severe and Extreme NAAs, respectively.

⁸ CAA section 241(2) defines clean alternative fuels as any fuel, including methanol, ethanol, or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuels), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen) or power source (including electricity). CAA section 241(7) defines a clean fuel vehicle as one that has been certified to meet the relevant light and heavy-duty truck exhaust standards in CAA sections 243 and 245, respectively.

⁹ CARB's submittal does not include the San Diego County NAA, which was submitted separately on January 12, 2021, as a part of the "2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County." The EPA will act on the CFF requirement for the San Diego County NAA in a separate rulemaking. CARB's submittal also does not include Kern County (Eastern Kern) and Nevada County (Western part) because neither area exceeds the population threshold that is prescribed in the Act to require implementation of the CFF Program.

of receipt. Any plan that the EPA does not affirmatively determine to be complete or incomplete will become complete six months after the day of submittal by operation of law. A finding of completeness does not approve the submittal as part of the SIP, nor does it indicate that the submittal is approvable. It does start a 12-month clock for the EPA to act on the SIP submittal (see CAA section 110(k)(2)).

B. Requirements for Clean Fuels for Fleets

As described in section I of this document, CAA section 182(c)(4) and 246 provide that SIPs for Serious, Severe, and Extreme nonattainment areas with 1980 populations greater than 250,000 require that at least a specified percentage of all new covered fleet vehicles in model year 1998 and thereafter, purchased by each covered fleet operator in each covered area, be clean-fuel vehicles and use clean alternative fuels when operating in the covered area.

Additional guidance on this requirement is provided in CAA section 182(c)(4)(B). According to CAA section 182(c)(4)(B), any revision to the relevant applicable implementation plan that in the Administrator's judgment will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under section 246 of the CAA, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute, can substitute for all or a portion of the clean-fuel vehicle program described under part C of title II of the Act.

According to the EPA's "Guidance for Fulfilling the Clean Fuels for Fleets Requirement of the Clean Air Act,"¹⁰ the substitute measure(s) must achieve long-term reductions in ozone precursor emissions equal to those achieved through the CFF Program. A state could submit a SIP revision implementing substitute measures that achieve emissions reductions that are equal or greater than those achieved by implementing a CFF Program, with the understanding that any

¹⁰ EPA, "EPA's Guidance for Fulfilling the Clean Fuel Fleets Requirement of the Clean Air Act," EPA-420-B-22-027, June 2022.

new light- or heavy-duty vehicle purchased by a fleet owner is deemed to also meet the CAA emissions standards for ultra-low emission CFF vehicles.

III. Summary of the State's Submittal

A. Adoption and Submittal of SIP Revisions

The submittal package ("2022 CARB SIP submittal") contains the Clean Fuels for Fleets Certification, a multi-district certification that the existing CFF programs in the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs meet the CFF requirements under the 2015 ozone standard.¹¹ The 2022 CARB SIP submittal includes a cover letter to the EPA dated February 3, 2022;¹² signed Resolution 22-1, dated January 27, 2022,¹³ demonstrating that CARB adopted the certification; a copy of the notice of public hearing held on January 27, 2022,¹⁴ consistent with 40 CFR part 51.102; and a SIP completeness checklist.¹⁵

B. Summary of State Submittal

In the Clean Fuels for Fleets Certification, CARB states that in 1994, it submitted a SIP revision to the EPA to opt out of the CFF Program. The Clean Fuels for Fleets Certification includes a demonstration that California's Low-Emission Vehicle (LEV) program achieved emissions reductions at least equivalent to the reductions that would be achieved by the EPA's CFF Program. CARB also states that California's LEV program established regulations that created tiers of exhaust emissions standards for increasingly more stringent categories of LEVs, a mechanism requiring each auto manufacturer to phase-in a progressively cleaner mix of vehicles from year to year with the option of credit banking and trading, and a requirement that a

¹¹ CARB, "California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard," dated December 17, 2021.

¹² Letter dated February 3, 2022, from Richard W. Corey, Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX.

¹³ CARB Resolution 22-1, "California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard," January 27, 2022.

¹⁴ CARB, "Notice of Public Meeting to Consider the Proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard," dated December 17, 2021.

¹⁵ CARB, "Completeness Checklist for SIP Revision."

specified percentage of passenger cars and light-duty trucks be zero-emission vehicles with no exhaust or evaporative emissions. The Clean Fuels for Fleets Certification also indicates that the EPA approved the California SIP revision to opt out of the CFF Program effective September 27, 1999.¹⁶

CARB also stated in the submittal that the State has continued to strengthen emissions requirements in its LEV program, adopting LEV II¹⁷ standards in 1998 and LEV III¹⁸ standards in 2012. CARB also certified in its Clean Fuels for Fleets Certification that California's LEV program qualifies as a substitute for the EPA program and satisfies Sections 182(c)(4) and 246 of the Act for the 0.070 ppm ozone standard for the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs.

IV. The EPA's Evaluation of the State's Submittal

A. Evaluation of Procedural Requirements

Based on the documentation included in the 2022 CARB SIP submittal, the EPA finds that the submittal satisfies the procedural requirements of sections 110(a)(1) and 110(l) of the Act, requiring states to provide reasonable notice and an opportunity for public hearing prior to adoption of SIP revisions. CARB's submittal became complete by operation of law on August 3, 2022, pursuant to section 110(k)(1)(B).

B. Evaluation of Requirements for Clean Fuels for Fleets

The EPA has reviewed the Clean Fuels for Fleets Certification for consistency with sections 182(c)(4) and 246 of the CAA. As explained in section II of this document, Section 182(c)(4)(B) of the CAA allows states to opt out of the federal CFF Program by submitting a SIP revision consisting of a program or programs that will result in equivalent or greater long-term reductions in ozone precursors and toxic air emissions as that which is prescribed under section

¹⁶ 64 FR 46849 (August 27, 1999).

¹⁷ See the LEV II and CAP 2000 Regulatory Documents webpage, available at: <https://ww3.arb.ca.gov/regact/levii/levii.htm>.

¹⁸ See the LEV III and GHG 2012 Regulatory Documents webpage, available at: <https://ww3.arb.ca.gov/regact/2012/leviiiighg2012/leviiiighg2012.htm>.

246 of the CAA. We agree with the 2022 CARB SIP Submittal that in 1994, CARB submitted a SIP revision to the EPA to opt out of the federal CFF Program. The submittal included a demonstration that California's LEV program achieved emissions reductions at least as large as would be achieved by the federal program. The EPA approved the SIP revision to opt out of the federal program on August 27, 1999.¹⁹ There have been no changes to the federal CFF Program since the EPA approved the California SIP revision to opt out of the federal program, and thus, no corresponding changes to the SIP are required. The EPA finds that California has continued to adopt and implement increasingly stringent versions of the LEV program. Therefore, new vehicles must be certified to emissions standards that are significantly more stringent than the CFF Program. Thus, we find that the California SIP revision to opt out of the federal program, as approved in 1999, meets the requirements of CAA sections 182(c)(4)(A) and 246 and the EPA's "Guidance for Fulfilling the Clean Fuel Fleets Requirement of the Clean Air Act" for Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs for the 2015 ozone NAAQS.

V. Proposed Action

For the reasons discussed in this document, under CAA section 110(k)(3), the EPA is proposing to find that the 2022 CARB SIP submittal meets the requirements of CAA sections 182(c)(4) and 246 for the 2015 ozone NAAQS with respect to the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose

¹⁹ 64 FR 46849.

additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 16, 2023.

Martha Guzman Aceves,
Regional Administrator,
Region IX.